

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VERSUS

CRIMINAL NO. 1:04cr105WJG-JMR-2

YOLANDA CHAVEZ

ORDER

THIS CAUSE is before the Court on Defendant Yolanda Chavez's motion [79] for a Certificate of Appealability [COA]; motion [80] for transcript; and motion [81] for leave to proceed *in forma pauperis* [IFP]. Upon review of these motions and the record in this matter, the Court finds as follows:

The basis for Defendant's request for a COA as set forth in her motion is her intent to appeal a judgment of this Court denying her motion for relief under 28 United States Code, Section 2255. As evidenced by the record in this matter, Defendant has never filed such motion; therefore, there is no judgment to appeal.

Defendant was sentenced to 168 months in the custody of the Bureau of Prisons; a 5 year period of supervised release, and a \$100 special assessment on Count 1 (conspiracy to distribute a controlled substance) of the Indictment on March 7, 2006. (Minute Entry, March 9, 2006). A written judgment memorializing the sentence handed down by the Court at Defendant's sentencing hearing was filed of record on April 4, 2006. (Ct. R., Doc. 65.) Defendant filed her Notice of Appeal of her sentence on October 23, 2006, (Ct. R., Doc. 71), which was appeal was dismissed as untimely by the Fifth Circuit Court of Appeals on January 18, 2007. (Ct. R., Doc.

72.) With the exception of the three motions now pending before the Court, all being filed on August 8, 2007, no other motions have been filed by the Defendant.

The Court therefore finds Defendant's motions frivolous, and deems they should be denied as such. It is therefore,

ORDERED, that Defendant's motion [79] for COA; motion [80] for transcript; and motion [81] for leave to proceed *IFP* be, and are hereby, denied.

SO ORDERED, this the 8th day of August, 2007.

Walter J. Gax III

UNITED STATES SENIOR DISTRICT JUDGE